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Paper No. 9

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MAR 11 2003

In re Application of	:	OFFICE OF PETITIONS
Burt Swersey, Marcie J. Harvey, Elias	:	
Kaplan, Jennifer Lamana, Stephen J.	:	
Howard, Dean Meloney, John Weed, and	:	RENEWED DECISION REFUSING
Timothy Novak	:	STATUS UNDER 37 CFR §1.47(a)
Application No. 09/800,872	:	
Filed: March 7, 2001	:	
Title: DIFFERENTIAL PERMEOMETER	:	

This is in response to the renewed petition under 37 CFR §1.47(a)¹, filed May 14, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 7, 2001. On April 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance

¹ A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application;
- (3) a statement of the last known address of the non-signing inventors;
- (4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
- (5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
- (6) a declaration which complies with 37 CFR 1.63.

with 37 CFR §1.63 and the surcharge for its late filing. This Notice set a two-month period for reply.

The original petition, filed on September 10, 2001, was dismissed in a decision mailed on March 5, 2002, for failure to prove that diligent efforts have been made to locate the non-signing inventor.

With the instant petition, a fully executed declaration was filed.

Unfortunately, it has been noticed that the declaration filed with the original petition contains a non-initialed, non-dated change on the residence line of inventor Weed. Non-initialed and non-dated alterations cannot be made to the oath or declaration².

Thus, on renewed petition, applicant must submit a newly executed declaration, signed by inventor Weed, with either the correct address listed, or the change both initialed and dated.

The reply to this letter may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.



Paul Shanowski
Attorney
Office of Petitions
United States Patent and Trademark Office

² See 37 CFR 1.52(c).

³ Commissioner for Patents, Box DAC, Washington, DC 20231.

⁴ Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

⁵ (703) 308-6916, Attn: Office of Petitions.